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- 1 b. Requests by Trustee for documents and information are not superseded by the filing of an  
2 amended plan or motion for moratorium. LRBP Rule 2084-10(b).
- 3 c. Trustee objects to any reduction in the Plan duration or payout in a proposed Stipulated  
4 Order Confirming Plan unless an amended modified plan is filed (using Model Plan Form  
5 13-2) and noticed out.
- 6 d. Trustee requires that any proposed Order Confirming Plan state: "The Plan and this Order  
7 shall not constitute an informal proof of claim for any creditor."
- 8 e. Trustee requires that any Stipulated Order Confirming Plan state: "Debtors are instructed  
9 to remit all payments on or before the stated due date each month. Debtors are advised  
10 that when payments are remitted late, additional interest may accrue on secured debts,  
11 which may result in a funding shortfall at the end of the Plan term. Any funding shortfall  
12 must be cured before a discharge can be entered. This requirement is effective regardless  
13 of plan payment suspensions, waivers or moratoriums, and must be included in any  
14 Stipulated Order Confirming."
- 15 f. At the time of confirmation, Debtors are required to certify, via language in the Stipulated  
16 Order confirming, that they are current on all payments that have come due on any  
17 Domestic Support Orders since the filing of their case and that they are current on all  
18 required tax return filings [pursuant to 11 U.S.C. Sec 1325(a)(8), (9)].
- 19 g. Debtors, or Debtors' Attorney are required to provide copies of their federal and state  
20 income tax returns for each year for the duration of the Plan to Trustee. Tax returns must  
21 be forwarded **within 30 days after the returns have been filed**. All Personally  
22 Identifiable Information must be redacted prior to submission. Tax returns may be  
23 submitted to [mail@dcktrustee.com](mailto:mail@dcktrustee.com). This requirement is to be included in the Stipulated  
24 Order Confirming the plan. Failure to submit tax returns may result in the dismissal of the  
25 Chapter 13 case.
- 26 h. If Debtors received a tax refund larger than \$1,000 for the tax period preceding the filing  
of this case, the continuation of such deduction would constitute a diversion of income  
that would otherwise be available to creditors. Accordingly Trustee requires that Debtors  
(i) adjust payroll tax deductions to prevent over withholding, (ii) amend Schedule I to  
reflect the reduced withholding; (ii) submit to Trustee two consecutive paystubs to verify  
said reduction; and (iv) increase the plan payments in the Stipulated Order Confirming.
- i. If Debtors are in default (in any amount) on their first mortgage the plan must propose  
mortgage conduit payments. If the plan does not propose a mortgage conduit, Trustee  
objects to confirmation. This may be resolved by amending the plan or seeking an order  
from the court excusing compliance with the conduit requirement. Standing Order:  
Conduit Mortgage Payments (Tucson Division).

1 **Specific Requirements:**

- 2 1. Tax Refunds. If Debtors receive a tax refund in excess of \$1,000 during the
- 3 pendency of this case, said refund must be turned over to the Trustee. The
- 4 proposed stipulated order on confirmation needs to specifically provide that
- 5 such refund is a SUPPLEMENTAL payment under the plan.
- 6 2. The order confirming plan must contain the following language related to
- 7 treatment of general unsecured claims: “General Unsecured Claims. Such claims
- 8 shall be paid pro rata the balance of payments under the Plan and any unsecured debt
- 9 balance remaining unpaid at the end of the Plan may be discharged as provided in 11
- 10 U.S.C. § 1328(a).”
- 11 3. Filed Proofs of Claim. To date Trustee has noted that the following creditors have
- 12 filed proofs of claim that differ from the treatment proposed in the Chapter 13 Plan.
- 13 **Trustee objects to the treatment of these proofs of claim. This objection may be**
- 14 **resolved by amending the secured/priority treatment to match the proofs of claim**
- 15 **in the Stipulated Order Confirming the Plan or by filing an objection followed by**
- 16 **an order**: NONE. This objection extends to proofs of claim, if any, filed after the date
- 17 of this evaluation/objection which seek treatment different from that provided for in
- 18 the proposed Chapter 13 Plan.
- 19 4. Unfiled Proofs of Claim. To date the following creditors listed in the Plan have not
- 20 filed proofs of claims: **NONE**. Trustee reserves the right to supplement or amend this
- 21 paragraph.
- 22 5. Plan Payments. Debtor has made payments in the total amount of \$2,940.00. Debtor
- 23 is current on these payments through November 2017. Trustee will not stipulate to
- 24 confirmation unless the plan payments are current. Plan payment information may be
- 25 obtained by logging on to [www.ndc.org](http://www.ndc.org). In general, the information on this website is
- 26 24-hours old.
6. Documents Requested by Trustee. Any documents that have been requested will need
- to be provided within 30 days. Such documents should be sent to Trustee with a cover
- letter outlining and describing the documents. **Any documentation submitted must**
- be legible, organized by category and month, totaled and averaged (i.e. “show**
- your work”)**. If Debtors fail to follow this guideline, Trustee will not consider
- any information as being received and a Dismissal Order may be lodged for
- failure to comply. Debtor is also required to submit a written explanation
- justifying the reasonable NECESSITY of the excessive expenses.

- 1           7. **Schedule J.** Trustee objects to Debtor's Schedule J as it lists Debtor's previous  
2           expenses and it needs to reflect Debtor's current monthly expenses after the  
3           surrender of the 2011 Chevy Impala. This objection may be resolved by filing an  
4           amended Schedule J with Debtor's current monthly expenses.
- 5           8. **Notarized Affidavit Regarding Tax Returns.** Trustee notes that the Debtors have  
6           provided Trustee with a notarized affidavit stating that the Debtors are not required to  
7           file 2015 tax returns, however, since specific years were listed on this affidavit, please  
8           note a new affidavit will be required yearly.
- 9           9. **Liquidation Analysis:** At this time Trustee believes that the plan **does** satisfy the  
10          liquidation analysis requirements. Trustee reserves the right to amend this conclusion.
- 11          10. **Plan Feasibility.** Pursuant to Trustee's calculations, the Chapter 13 Plan is feasible at  
12          this time. However, Trustee reserves the right to file an amended evaluation requiring  
13          adjustments to the terms of the plan, including an increase in plan funding if  
14          necessary, in order to address all timely filed proofs of claims once the claims bar date  
15          has passed in this case.
- 16          11. **Objections to Confirmation.** Debtors shall resolve plan objections by submitting a  
17          proposed SOC to Trustee or by setting a hearing on the objection within 30 days of  
18          this objection/evaluation. If Debtors wish to confirm by stipulation, the stipulation of  
19          the objecting creditor must be obtained in writing prior to submitting a proposed SOC  
20          to Trustee. If the resolution of the objection requires changes which have an adverse  
21          impact on any other creditor under the plan (including a reduction in the amount to  
22          any creditor and/or a delay in payment), the changes must be noticed to creditors and  
23          an opportunity for objection provided. To date Trustee has noted that the following  
24          creditors have filed objections to the Chapter 13 Plan: **NONE.**
- 25          12. **Submission of Proposed SOC.** If Debtors propose to confirm the plan through a  
26          stipulated order on confirmation, a Notice of Submitting Proposed SOC should be  
            filed with the Court, including a complete copy of the Proposed SOC as an exhibit.  
            The Notice, SOC, and filing receipt may then be transmitted to Trustee via electronic  
            mail ([mail@dcktrustee.com](mailto:mail@dcktrustee.com)) or first class mail. Trustee will not review a proposed  
            SOC if it does not appear on the court's docket.<sup>1</sup> Trustee considers the time for  
            reviewing a proposed Order pursuant to Rule 2084-13(e), L.R.B.P., to begin running  
            when all Recommendation conditions are met.

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of December 2017.

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<sup>1</sup> The alternative to stipulated confirmation is setting a contested confirmation hearing before the judge.

1  
2 OFFICE OF THE CHAPTER 13 TRUSTEE  
3 7320 N. La Cholla #154-413  
4 Tucson, AZ 85741

5 By /s/ Craig Morris ASB #011628  
6 Craig Morris  
7 Staff Attorney for the Chapter 13 Trustee  
8

9 A copy of the foregoing was filed with the  
10 court and a copy, was transmitted via  
11 electronic or first class  
12 mail this 12/21/2017 to:

13 DAVID MITCHELL LABUDA  
14 CYNTHIA JUNE LABUDA  
15 11400 S PRESERVE DRIVE  
16 VAIL, AZ 85641  
17 Debtors

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24 By: SA  
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